

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

|                                             |   |           |
|---------------------------------------------|---|-----------|
|                                             | ) | Case No.: |
|                                             | ) |           |
| JOSHUA SCHLEIFER, on behalf of himself      | ) |           |
| and all other similarly situated consumers, | ) |           |
|                                             | ) |           |
| Plaintiff,                                  | ) |           |
|                                             | ) |           |
| vs.                                         | ) |           |
|                                             | ) |           |
|                                             | ) |           |
| AVIS RENT A CAR SYSTEM, LLC. and            | ) |           |
| AVIS BUDGET GROUP,                          | ) |           |
|                                             | ) |           |
| Defendants.                                 | ) |           |

---

**CLASS ACTION COMPLAINT**

Plaintiff, Josh Schleifer (“Joshua”) by and through undersigned counsel, pleading on his own behalf and on behalf of all others similarly situated, brings this Complaint against Defendants, Avis Rent A Car System LLC. and Avis Budget Group (hereinafter collectively referred to as “Defendants or Avis”), and states as follows:

**PRELIMINARY STATEMENT**

1. Josh brings this putative class action seeking penalties for violation of the Truth-in-Consumer Contract, Warranty and Notice Act (TCCWNA or Act), *N.J.S.A. 56:12-14 to -18*. The Act was codified in 1981 and designed to address the inclusion of provisions in consumer contracts, warranties, notices, and signs that violate consumer rights. *Shelton v. Restaurant.com, Inc.*, 214 N.J. 419, 431 (2013). The Act was specifically designed to prevent a defendant from absolving itself of liability and limiting the rights of consumers in seeking redress for damages incurred.

2. Contracts, warranties, notices, and signs that violate the TCCWNA, subject the violator to a penalty not less than \$100, and allow for the consumer to petition a court to terminate said contract. *N.J.S.A. 56:12-17*.

### **JURISDICTION AND VENUE**

3. This Court has jurisdiction over this action pursuant to 28 U.S.C. §1332(d) because members of the proposed Class are citizens of states different from the Defendants home state, there are more than 100 Class Members, and the amount in-controversy exceeds \$5,000,000, exclusive of interest and costs

4. This Court has jurisdiction over the Defendants because Defendants corporate headquarters are located in Parsippany, New Jersey, and it operates and controls its website from Parsippany, New Jersey.

5. Venue is proper in this District under 28 U.S.C. 1391(b) because Defendants improper conduct alleged in this complaint occurred in, was directed from, and/or emanated from this judicial district and/or because the Defendants are subject to personal jurisdiction in this district.

### **PARTIES**

6. Josh is a natural person, who at all relevant times has resided New York, New York.

7. Avis Budget Group is a corporation with corporate headquarters in Parsippany, New Jersey. Avis Budge Group is the parent company of Avis Rent A Car System LLC.

8. Avis Rent A Car System LLC is a corporation with corporate headquarters in Parsippany, New Jersey.

**ALLEGATIONS APPLICABLE TO ALL COUNTS**

9. Plaintiff repeats, realleges, and reasserts the allegations contained in paragraphs 1 through 8 above and incorporates them as if specifically set forth at length herein.
10. Avis owns and operates a car rental company.
11. Consumers frequently rent vehicles through a website owned and operated by Avis: avis.com.
12. On or about August 2015, Plaintiff rented a vehical through Avis.com.
13. Joshua is a “consumer” within the meaning of N.J.S.A. 56:12-15 in that he rented a car from Avis which is primarily for personal, family, and household services.
14. Defendants are “sellers” within the meaning of N.J.S.A. 56:12-15.
15. Defendants website provides a terms and conditions section. Exhibit A.
16. Within these terms and conditions, Defendants intentionally attempt to absolve themselves of all possible liability, blatantly obscure the effects of their disclaimers on New Jersey residents, and shirk away from duties they owe to consumers.
17. All of these actions violate the TCCWNA.
18. In the general terms and conditions segment, Defendants’ website states:

ALL CONTENT ON THIS WEB SITE IS PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. OTHER THAN THOSE WARRANTIES WHICH, UNDER THE U.S. LAWS APPLICABLE TO THESE TERMS, ARE IMPLIED BY LAW AND ARE INCAPABLE OF EXCLUSION, RESTRICTION, OR MODIFICATION, AVIS DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER AVIS, ITS AFFILIATED OR RELATED ENTITIES, NOR THE PROVIDERS, NOR ANY PERSON INVOLVED IN THE CREATION, PRODUCTION, AND DISTRIBUTION OF THIS WEB SITE WARRANT THAT THE FUNCTIONS CONTAINED IN THIS WEB SITE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVER THAT MAKES THE CONTENT AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL

COMPONENTS. THE CONTENT THAT YOU ACCESS ON THIS WEB SITE IS PROVIDED SOLELY FOR YOUR CONVENIENCE AND INFORMATION ONLY. AVIS DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THIS WEB SITE, OR AS TO THE RELIABILITY, ACCURACY OR CURRENCY OF ANY INFORMATION CONTENT, SERVICE AND/OR MERCHANDISE ACQUIRED PURSUANT TO YOUR USE OF THIS WEB SITE. YOU AGREE THAT WE MAY CHANGE OR DISCONTINUE THE SERVICES IN OUR SOLE DISCRETION AND WITH NO PRIOR NOTICE TO YOU.

YOU EXPRESSLY AGREE THAT USE OF THIS WEB SITE IS AT YOUR SOLE RISK. YOU (AND NOT AVIS) ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION OF YOUR SYSTEM. YOU EXPRESSLY AGREE THAT NEITHER AVIS, NOR ITS AFFILIATED OR RELATED ENTITIES (INCLUDING ITS PROVIDERS), NOR ANY OF THEIR RESPECTIVE EMPLOYEES, OR AGENTS, NOR ANY PERSON OR ENTITY INVOLVED IN THE CREATION, PRODUCTION AND DISTRIBUTION OF THIS WEB SITE, IS RESPONSIBLE OR LIABLE TO ANY PERSON OR ENTITY WHATSOEVER FOR ANY LOSS, DAMAGE (WHETHER ACTUAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURY, CLAIM, LIABILITY OR OTHER CAUSE OF ANY KIND OR CHARACTER WHATSOEVER BASED UPON OR RESULTING FROM THE USE OR ATTEMPTED USE OF THIS WEB SITE OR ANY OTHER LINKED SITE. BY WAY OF EXAMPLE, AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, AVIS AND RELATED PERSONS AND ENTITIES SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY CLAIM OR DAMAGE ARISING FROM FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION, COMPUTER VIRUS, THEFT, DESTRUCTION, UNAUTHORIZED ACCESS TO OR ALTERATION OF PERSONAL RECORDS, OR THE RELIANCE UPON OR USE OF DATA, INFORMATION, OPINIONS OR OTHER MATERIALS APPEARING ON THIS WEB SITE. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT AVIS IS NOT LIABLE OR RESPONSIBLE FOR ANY DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER SUBSCRIBERS OR THIRD PARTIES.

SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. IN SUCH JURISDICTIONS, AVIS' LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

19. This clause violates specific provisions of the TCCWNA.

Terms and Conditions Which Purport to Deny Consumers' Rights to Damages, and Absolve Defendant of All Liability Violate the TCCWNA

20. Defendants Terms and Conditions attempt to absolve themselves of all liability, and completely remove the duties it owes to consumers.

21. New Jersey Courts have established that such exculpatory clauses that prevent a consumer's right to damages are not allowed. *Martinez-Santiago v. Public Storage*, 38 F.Supp.3d 500, 512-513 (DNJ 2014); *Marcinczyk v. State of New Jersey Police Training Comm'n*, 203 N.J. 586, 593 (2010).

22. Further, it is well established in New Jersey that a defendant owes a duty of care to consumers to avoid creating an unreasonable risk of harm.

23. By violating these clearly established rights of consumers, and attempting to limit established seller responsibility, Defendants have violated the TCCWNA.

Terms and Conditions Which Purport to Deny Rights, Responsibilities and Remedies Under the New Jersey Punitive Damages Act ("NJPD") Violate the TCCWNA

24. Defendants Terms and Conditions attempt to prevent consumers from seeking punitive damage awards for damage incurred.

25. New Jersey has codified a clearly established right of its consumers to seek punitive damages in specific instances.

26. N.J. Stat. § 2A:15-5.12 states that a New Jersey plaintiff may seek punitive damages where a defendant's acts or omissions actuated by actual malice or accompanied by a wanton and willful disregard of persons who foreseeably might be harmed

27. By violating these clearly established right of New Jersey consumers, and attempting to limit established seller responsibility, Defendants have violated the TCCWNA.

Terms and Conditions Which Purport to Deny Rights, Responsibilities and Remedies Under the Uniform Commercial Code ("U.C.C.") Violate the TCCWNA

28. Defendants Terms and Conditions attempt to prevent consumers from seeking redress in accordance with that provided under the New Jersey Uniform Commercial Code.

29. The NJ UCC provides consumers a number of remedies in the event a seller of goods has breached its duties.

30. By violating these clearly established right of New Jersey consumers, and attempting to limit established seller responsibility, Defendants have violated the TCCWNA.

Terms and Conditions Which Purport to Deny Rights, Responsibilities and Remedies to Consumers Damaged by Failure To Provide Internet Security and Notice Violate the TCCWNA

31. Defendants Terms and Conditions attempt to prevent consumers from seeking redress in accordance with that provided under the New Jersey internet protection laws.

32. New Jersey requires that business owners safeguard customers' personal information placed on the internet. N.J.S.A. 56:8-161, *et seq.* Failure to comply with the statutory mandates and take proper safeguards to protect against the dissemination of customers' personal information is a tortious offense and actionable under the New Jersey Consumer Fraud Act. N.J.S.A. 56:8-3; 56:8-3.1. Similarly, in the event of breach, notices must be sent out by the business owner. N.J.S.A. § 56:8-163.

33. By violating these clearly established right of New Jersey consumers, and attempting to limit established seller responsibility, Defendants have violated the TCCWNA.

Failure To Clarify Effect on New Jersey Consumers of Ambiguous Limitation of Liability Provision

34. Defendants Terms and Conditions state that certain states may not allow certain liability limitations with out specifying which provisions are or are not void, unenforceable or inapplicable within the State of New Jersey.

35. Said action violates the TCWNA.

**CLASS ACTION ALLEGATIONS**

**The Class**

36. Joshua bring this class action on behalf of himself and all other similarly situated consumers pursuant to Rule 23 of the Federal Rules of Civil Procedure (“FRCP”) and seeks to represent the following class of people:

**Class: All consumers whom were offered, given, displayed or entered into the Terms and Conditions on Defendants’ avis.com website, during the applicable statute of limitations through the date of final judgment in this action.**

37. Subject to additional information obtained through further investigation and discovery, the foregoing definition of the Class may be expanded or narrowed by amendment.

38. Excluded from the Class are the Defendants herein, and any person, firm, trust, corporation or other entity related to or affiliated with Defendants, including, without limitation, persons who are officers, directors, employees, associates or partners of Defendants.

#### **Numerosity**

39. Upon information and belief, the class consists of thousands of consumers throughout the United States. The members of the Class, therefore, are believed to be so numerous that joinder of all members is impracticable.

40. The exact number and identities of the members of the Class are unknown at this time and can only be ascertained through discovery. Identification of the members of the Class is a matter capable of ministerial determination from Defendants' records.

#### **Common Questions of Law and Fact**

41. There are questions of law and fact common to the class that predominates over any questions affecting only individual Class members. These common questions of law and fact include, without limitation: (i) whether Defendants violated various provisions of the TCCWNA; (ii) whether the Plaintiff and the Class have been injured by the conduct of Defendants; (iii) whether the Plaintiff and the Class have sustained damages and are entitled to restitution as a result of Defendants wrongdoing and, if so, what is the proper measure and appropriate statutory formula to be applied in determining such damages and restitution; and (iv) whether the Plaintiff and the Class are entitled to declaratory and/or injunctive relief.

#### **Typicality**

42. Plaintiff's claims are typical of the claims of the members of the Class, and the Plaintiff has no interests adverse or antagonistic to the interests of other members of the Class.

**Protecting the Interests of the Class Members**

43. Plaintiff will fairly and adequately represent the Class members' interests in that the Plaintiff's counsel is experienced and, further, anticipates no impediments in the pursuit and maintenance of the Class Action as sought herein.

**Proceeding Via Class Action is Superior and Advisable**

44. A class action is superior to other methods for the fair and efficient adjudication of the claims herein asserted.

45. The members of the Class are generally unsophisticated individuals, whose rights will not be vindicated in the absence of a Class Action.

46. Prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications resulting in the establishment of inconsistent or varying standards for the parties.

47. A Class Action will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without the duplication of effort and expense that numerous individual actions would engender. Class treatment also will permit the adjudication of relatively small claims by many Class members who could not otherwise afford to seek legal redress for the wrongs complained of herein.

48. Absent a Class Action, the members of the Class will continue to suffer losses borne from Defendants breaches of Class members' statutorily protected rights as well as monetary damages, thus allowing and enabling: (a) Defendants conduct to proceed and; (b) Defendants to further enjoy the benefit of its ill-gotten gains.

49. Defendants have acted, and will act, on grounds generally applicable to the entire Class, thereby making appropriate a final injunctive relief or corresponding declaratory relief with respect to the Class as a whole.

**COUNT I**  
**VIOLATION OF TRUTH IN CONSUMER CONTRACT, WARRANTY AND**  
**NOTICE ACT N.J.S.A. 56:12-15**

50. Plaintiff repeats, realleges and reasserts the allegations contained in paragraphs 1 through 35 above and incorporates them as if specifically set forth at length herein.

51. N.J.S.A. 56:12-15 states:

No seller, lessor, creditor, lender or bailee shall in the course of his business offer to any consumer or prospective consumer or enter into any written consumer contract or give or display any written consumer warranty, notice or sign after the effective date of this act which includes any provision that violates any clearly established legal right of a consumer or responsibility of a seller, lessor, creditor, lender or bailee as established by State or Federal law at the time the offer is made or the consumer contract is signed or the warranty, notice or sign is given or displayed.

52. Defendant's terms and conditions consist of a written consumer warranty, notice or sign, that violates numerous clearly established legal rights of New Jersey consumers and responsibilities owed by sellers to those consumer.

53. Plaintiffs have been damaged and are entitled to relief.

**COUNT II**  
**VIOLATION OF TRUTH IN CONSUMER CONTRACT, WARRANTY AND**  
**NOTICE ACT N.J.S.A. 56:12-16**

54. Plaintiff repeats, realleges and reasserts the allegations contained in paragraphs 1 through 35 above and incorporates them as if specifically set forth at length herein.

55. N.J.S.A. 56:12-16 states:

No consumer contract, warranty, notice or sign, as provided for in this act, shall contain any provision by which the consumer waives his rights under this act. Any such provision shall be null and void. No consumer contract, notice or sign shall state that any of its provisions is or may be void, unenforceable or inapplicable in some jurisdictions without specifying which provisions are or are not void, unenforceable or inapplicable within the State of New Jersey; provided, however, that this shall not apply to warranties.

56. Defendants terms and conditions state that certain liability provisions may be void and unenforceable or inapplicable in some jurisdictions, yet, Defendants terms and conditions do not specify which provisions are or are not void, unenforceable or inapplicable within the State of New Jersey.

57. Plaintiffs have been damaged and are entitled to relief.

### **PRAYER FOR RELIEF**

WHEREFORE, Joshua, respectfully requests that this Court do the following for their benefit:

- a) Enter an Order certifying that this action may be maintained as a class action;
- b) Judgment awarding to the Plaintiff and Class Members not less than \$100 for each violation of the TCCWNA, pursuant to N.J.S.A. 56:12-17;
- c) Enter an Order terminating the above-referenced language in the provisions of the “Terms and Conditions” set forth on Defendants website, and ordering Defendants to remove said terms from its website;

- d) award costs and reasonable attorneys' fees, pursuant to N.J.S.A. 56:12-17; and
- e) Grant such other and further relief as may be just and proper.

**JURY TRIAL DEMAND**

Plaintiff demands a jury trial on all issues so triable.

Dated this 15<sup>th</sup> day of April, 2016

Respectfully Submitted,

\_\_\_\_\_/s/ Fred M. Zemel \_\_\_\_\_

Fred M. Zemel Esq.  
The Zemel Law Firm, P.C.  
70 Clinton Ave.  
Newark, New Jersey 07114  
(T) 973-622-5297  
(F) 973-824-2446  
Thezemellawfirm@optimum.net  
Attorneys for Plaintiff

## **Exhibit A**

Welcome to the **Avis Rent A Car web site** (the "Web Site"). Please read our Terms of Use (the "Terms") carefully before continuing on with your use of this Web Site. **THIS WEBSITE AND INFORMATION ON IT IS CONTROLLED BY AVIS RENT A CAR IN THE UNITED STATES, PLEASE SEE OUR WEBSITE PRIVACY POLICY FOR FURTHER INFORMATION.** These Terms shall govern the use of the Web Site and apply to all Internet traffic visiting the Web Site. By accessing or using this Web Site, you agree to the Terms. **THESE TERMS INCLUDE LIMITATIONS ON YOUR RIGHT TO SUE.**

The Terms are meant to protect all of our Web Site visitors and your use of this Web Site signifies your agreement with these Terms. **IF YOU DO NOT AGREE WITH THESE TERMS, DO NOT USE THIS WEB SITE.** Avis reserves the right, in its sole discretion, to modify, alter or otherwise update these Terms at any time. Such modifications shall be effective immediately upon posting. By using this Web Site after we have posted notice of such modifications, alterations or updates you agree to be bound by such revised Terms.

In accordance with our goals, this Web Site will provide links to many other web sites, that may or may not be affiliated with this Web Site and/or Avis, and that may have terms of use that differ from, or contain terms in addition to, the terms specified here. Your access to such web sites through links provided on this Web Site is governed by the terms of use and policies of those sites, not this Web Site.

#### **PRIVACY**

Registration data and certain other information about you is subject to our Privacy Policy. For more information, please review our full Privacy Policy.

#### **TRADEMARKS, COPYRIGHTS AND RESTRICTIONS**

This Web Site is controlled and operated by **Avis Rent A Car System LLC, 6 Sylvan Way, Parsippany, NJ 07054.** All content on this Web Site, including, but not limited to text, images, illustrations, audio clips, and video clips, is protected by copyrights, trademarks, service marks, and/or other intellectual property rights (which are governed by U.S. and worldwide copyright laws and treaty provisions, privacy and publicity laws, and communication regulations and statutes), and are owned and controlled by **Avis or its affiliates**, or by third party content providers, merchants, sponsors and licensors (collectively "Providers") that have licensed their content or the right to market their products and/or services to **Avis**. Content on this Web Site or any web site owned, operated, licensed or controlled by the Providers is solely for your personal, non-commercial use. You may print a copy of the content and/or information contained herein for your personal, non-commercial use only, but you may not copy, reproduce, republish, upload, post, transmit, distribute, and/or exploit the content or information in any way (including by e-mail or other electronic means) for commercial use without the prior written consent of **Avis or the Providers**. You may request consent by faxing a request to **Avis** at (973) 496-5510. Without the prior written consent of **Avis or the Providers**, your modification of the content, use of the content on any other web site or networked computer

environment, or use of the content for any purpose other than personal, non-commercial use, violates the rights of the owners of the **Avis** Web Site and/or the Provider copyrights, trademarks or service marks and other proprietary rights, and is prohibited. As a condition to your use of this Web Site, you warrant to **Avis** that you will not use our Web Site for any purpose that is unlawful or prohibited by these Terms, including without limitation the posting or transmitting any threatening, libelous, defamatory, obscene, scandalous, inflammatory, pornographic, or profane material. If you violate any of these Terms, in addition to any other remedies **Avis** or **its Providers** may have, your permission to use our Web Site immediately terminates without the necessity of any notice. **Avis** retains the right to deny access to anyone at its discretion for any reason, including for violation of these Terms. You may not use on your web site any trademarks, service marks or copyrighted materials appearing on this Web Site, including but not limited to any logos or characters, without the express written consent of the owner of the mark or copyright. You may not frame or otherwise incorporate into another web site any of the content or other materials on this Web Site without prior written consent of **Avis**.

## **LINKS**

This Web Site may contain links to other web sites ("Linked Sites"). The Linked Sites are provided for your convenience and information only and, as such, you access them at your own risk. The content of any Linked Sites is not under **Avis**' control, and **Avis** is not responsible for, and does not endorse, such content, whether or not **Avis** is affiliated with the owners of such Linked Sites. You may not establish a hyperlink to this Web Site that states or imply any sponsorship or endorsement of your web site by **Avis**, or its affiliates or Providers.

## **DISCLAIMER OF WARRANTIES AND LIABILITY**

ALL CONTENT ON THIS WEB SITE IS PROVIDED "AS IS" AND WITHOUT WARRANTIES OF ANY KIND EITHER EXPRESS OR IMPLIED. OTHER THAN THOSE WARRANTIES WHICH, UNDER THE U.S. LAWS APPLICABLE TO THESE TERMS, ARE IMPLIED BY LAW AND ARE INCAPABLE OF EXCLUSION, RESTRICTION, OR MODIFICATION, **AVIS** DISCLAIMS ANY AND ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NEITHER **AVIS**, ITS AFFILIATED OR RELATED ENTITIES, NOR THE PROVIDERS, NOR ANY PERSON INVOLVED IN THE CREATION, PRODUCTION, AND DISTRIBUTION OF THIS WEB SITE WARRANT THAT THE FUNCTIONS CONTAINED IN THIS WEB SITE WILL BE UNINTERRUPTED OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED, OR THAT THE SERVER THAT MAKES THE CONTENT AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE CONTENT THAT YOU ACCESS ON THIS WEB SITE IS PROVIDED SOLELY FOR YOUR CONVENIENCE AND INFORMATION ONLY. **AVIS** DOES NOT WARRANT OR MAKE ANY REPRESENTATIONS REGARDING THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF

THIS WEB SITE, OR AS TO THE RELIABILITY, ACCURACY OR CURRENCY OF ANY INFORMATION CONTENT, SERVICE AND/OR MERCHANDISE ACQUIRED PURSUANT TO YOUR USE OF THIS WEB SITE. YOU AGREE THAT WE MAY CHANGE OR DISCONTINUE THE SERVICES IN OUR SOLE DISCRETION AND WITH NO PRIOR NOTICE TO YOU.

YOU EXPRESSLY AGREE THAT USE OF THIS WEB SITE IS AT YOUR SOLE RISK. YOU (AND NOT **AVIS**) ASSUME THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR OR CORRECTION OF YOUR SYSTEM. YOU EXPRESSLY AGREE THAT NEITHER **AVIS**, NOR ITS AFFILIATED OR RELATED ENTITIES (INCLUDING ITS PROVIDERS), NOR ANY OF THEIR RESPECTIVE EMPLOYEES, OR AGENTS, NOR ANY PERSON OR ENTITY INVOLVED IN THE CREATION, PRODUCTION AND DISTRIBUTION OF THIS WEB SITE, IS RESPONSIBLE OR LIABLE TO ANY PERSON OR ENTITY WHATSOEVER FOR ANY LOSS, DAMAGE (WHETHER ACTUAL, CONSEQUENTIAL, PUNITIVE OR OTHERWISE), INJURY, CLAIM, LIABILITY OR OTHER CAUSE OF ANY KIND OR CHARACTER WHATSOEVER BASED UPON OR RESULTING FROM THE USE OR ATTEMPTED USE OF THIS WEB SITE OR ANY OTHER LINKED SITE. BY WAY OF EXAMPLE, AND WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, **AVIS** AND RELATED PERSONS AND ENTITIES SHALL NOT BE RESPONSIBLE OR LIABLE FOR ANY CLAIM OR DAMAGE ARISING FROM FAILURE OF PERFORMANCE, ERROR, OMISSION, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION, COMPUTER VIRUS, THEFT, DESTRUCTION, UNAUTHORIZED ACCESS TO OR ALTERATION OF PERSONAL RECORDS, OR THE RELIANCE UPON OR USE OF DATA, INFORMATION, OPINIONS OR OTHER MATERIALS APPEARING ON THIS WEB SITE. YOU EXPRESSLY ACKNOWLEDGE AND AGREE THAT **AVIS** IS NOT LIABLE OR RESPONSIBLE FOR ANY DEFAMATORY, OFFENSIVE OR ILLEGAL CONDUCT OF OTHER SUBSCRIBERS OR THIRD PARTIES. SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES. IN SUCH JURISDICTIONS, **AVIS'** LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

#### **INDEMNIFICATION**

You are fully responsible for how you use this Web Site. You may not share your log-in information with anyone else, but if you do you are fully responsible for how they use the Web Site too. You agree to indemnify, defend, and hold harmless **Avis and the Providers**, its and their officers, directors, employees, service providers, vendors, affiliates, agents, licensors, and suppliers from and against all losses, expenses, damages and costs, including reasonable attorneys' fees, resulting from any violation by you of these Terms.

#### **STANDARD OF CARE**

You agree that our sole obligation to you is to provide the Web Site as-is. You agree

that unless we do something that is grossly negligent or an act of willful misconduct in connection with the Web Site, we will not be liable to you or to any third party.

### **THIRD PARTY RIGHTS**

These Terms are for the benefit of **Avis and its Providers**, its and their officers, directors, employees, affiliates, agents, licensors, and suppliers. Each of these individuals or entities shall have the right to assert and enforce these Terms directly against you on its or their own behalf.

### **JURISDICTIONAL ISSUES**

Unless otherwise specified, the content contained in this Web Site is presented solely for your convenience and/or information. This Web Site is controlled and operated by **Avis** from its offices within Parsippany, NJ. **Avis** makes no representation that content in its Web Site is appropriate or available for use in other locations. Those who choose to access this Web Site from other locations do so on their own initiative and are responsible for compliance with local laws, if and to the extent local laws are applicable. You may not use or export the materials in this Web Site in violation of U.S. export laws and regulations. These Terms shall be governed by, construed and enforced in accordance with the laws of the State of New Jersey, as they are applied to agreements entered into and to be performed entirely within such State.

### **DISPUTE RESOLUTION -- VENUE**

You agree to be subject to the jurisdiction of New Jersey. You agree that any dispute between you and us to enforce these Terms, or in connection with any matters related to this Web Site, will be resolved in New Jersey to the exclusion of any other potential venue.

### **DISPUTE RESOLUTION - ARBITRATION, NO CLASS ACTIONS**

You agree that you will only sue us as an individual. You agree that you will not file a class action against **Avis or its Providers**, or participate in a class action against **Avis or its Providers**. You and we agree that any dispute between you and **Avis or its Providers** arising under or related to these Terms or this Web Site can only be brought in binding individual (non-class) arbitration to be administered by the American Arbitration Association ("AAA"). If, for any reason, AAA is not available, you or we may file our case with any national arbitration company.

### **SEVERANCE OF INVALID TERMS**

If any provision of these Terms shall be unlawful, void or for any reason unenforceable, then that provision shall be deemed severable from these Terms and shall not affect the validity and enforceability of any remaining provisions. Notwithstanding anything to the contrary, if the class action waiver of these Terms is deemed unenforceable, the agreement of the parties to engage in arbitration shall likewise be deemed stricken.

### **ENTIRE AGREEMENT**

The provisions and conditions of these Terms, and each obligation referenced herein,

represent the entire Agreement between **Avis**, its affiliated or related entities, and you, and supersede any prior agreements or understandings not incorporated herein. In the event that any inconsistencies exist between these Terms and any future published terms of use or understanding, the last published Terms or terms of use or understanding shall prevail.

**ANY RIGHTS NOT EXPRESSLY GRANTED HEREIN ARE RESERVED BY AVIS RENT A CAR SYSTEM LLC.**